

Nov 09 05 05:07p

Milde & Hoffberg, LLP

(914) 949-3416

P.1

RECEIVED
CENTRAL FAX CENTER

NOV 09 2005

MILDE & HOFFBERG, LLP
COUNSELORS IN INTELLECTUAL PROPERTY LAW

KARL F. MILDE, JR.
STEVEN M. HOFFBERG¹
OF COUNSEL:
CHERYL H. AGRIS, Ph.D.²
PAUL S. HOFFMAN
NANCY A. BIRD
HAROLD L. BURSTYN, Ph.D.³

10 BANK STREET, SUITE 460
WHITE PLAINS, NY 10606

WWW.MILDEHOFFBERG.COM

TEL: (914) 949-3100
FAX: (914) 949-3416
INFO@MILDEHOFFBERG.COM

¹ALSO ADMITTED IN CT
²ALSO ADMITTED IN NJ
³ADMITTED IN DC, VA, OH ONLY
⁴ALSO ADMITTED IN FL

VIA TELEFAX

FAX NO. (571) 273-8300

TO: COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

ART UNIT: 2164

EXAMINER : Sam Rimell

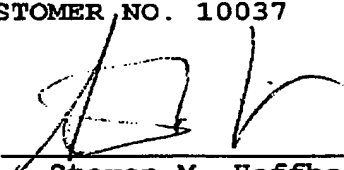
CASE NO.: SZABO 201.1

SERIAL NO.: 09/400,649

TOTAL NO. OF PAGES (INCLUDING THIS PAGE): 2

MILDE & HOFFBERG, LLP
CUSTOMER NO. 10037

By


Steven M. Hoffberg
Reg. No. 33,511

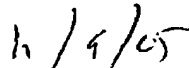
I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on the date
shown below.

Steven M. Hoffberg
Name (Type or Print)


Signature

RECEIVED
OIPE/IAP

NOV 10 2005


Date

IF THIS TRANSMISSION IS NOT COMPLETE, PLEASE CALL (914) 949-3100

SZABO 201.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED
CENTRAL FAX CENTER

NOV 09 2005

Applicant : Andrew Szabo
Serial No. : 09/400,649
Filed : September 21, 1999
For : NUTRITIONAL OPTIMIZATION SYSTEM AND METHOD
Examiner : Samuel Rimell
Group: 2175

Via Fax (571) 273-8300
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 9, 2005

RESPONSE TO NOTICE OF NONCOMPLIANT APPEAL BRIEF UNDER 37 C.F.R. §41.37

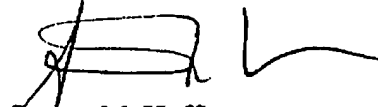
Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

SIR:

In response to the Notice of Noncompliant Appeal Brief dated November 3, 2005, and in compliance with the procedure outlined in MPEP 1210.01, Applicant herewith provides amended information identifying the real party in interest. The error in identifying the party was unintentional.

(1) REAL PARTY IN INTEREST: The real party in interest is the assignee of the patent application, Smeaton Pump LLC.

Respectfully submitted,



Steven M. Hoffberg
Reg. No. 33,511

MILDE & HOFFBERG LLP
10 Bank Street – Suite 460
White Plains, NY 10606
(914) 949-3100

Szabo-201.1

- 1 -

Appeal Brief